

**UNITED STATES DISTRICT COURT**  
**WESTERN DISTRICT OF LOUISIANA**  
**LAFAYETTE-OPELOUSAS DIVISION**

**HUE-MAR, LLC**  
**d/b/a Campers Unlimited**

**CIVIL ACTION NO. 07-0635**

**JUDGE MELANÇON**

**VERSUS**

**MAGISTRATE JUDGE METHVIN**

**FREEDOMROADS OPERATIONS CO., LLC**  
**MEYERS RV CENTERS, LLC**  
**BANK OF AMERICA, N.A.**

***RULING ON MOTION TO COMPEL***  
***(Rec. Doc. 62)***

Before the court is the motion to compel filed by plaintiff Hue-Mar LLC on April 9, 2008.<sup>1</sup> The U.S. Attorney provided a letter response to the undersigned magistrate judge on May 15, 2008.<sup>2</sup> Hue-Mar LLC filed a reply on May 27, 2008.<sup>3</sup> For the following reasons, the motion is **GRANTED**.

The facts of this case have been recited in numerous rulings by the court. *See* Rec. Docs. 13, 29, 35, 109.

***Motion to Compel***

Hue-Mar seeks to compel FEMA to produce the following original documents:

1. The January 13, 2006, “Notice of Assignment,” with all supporting documents, including but not limited to, the original January 13, 2006 Instrument of Assignment, related to FEMA Purchase Order HSFEHQ-06-P-4398; and
2. The January 13, 2006 “Notice of Assignment”, with all supporting documents, including but not limited to, the original January 13, 2006 Instrument of Assignment, related to FEMA Purchase Order HSFEHQ-06-P-4430.

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<sup>1</sup> Rec. Doc. 62.

<sup>2</sup> Rec. Doc. 80.

<sup>3</sup> Rec. Doc. 89.

Plaintiff alleges that the above documents are forgeries and that it needs the original of these documents for use at the jury trial scheduled for May 18, 2009 to “put to rest Bank of America’s unsubstantiated allegation that, valid properly executed, January 13, 2006 Instruments of Assignment actually exist.”<sup>4</sup>

The government and Hue-Mar have extensively briefed the procedural posture of the motion to compel. However, in its May 15 correspondence, the government expressly stated that was not refusing to produce the records:

FEMA has not refused to produce the records in response to Hue-Mar’s FOIA request. By correspondence dated February 20, 2008, FEMA agreed to produce copies of the requested documents although FEMA refused to provide the originals to Hue-Mar in that same correspondence. (See document #62-4). Upon completing a diligent search for the requested documents, FEMA will allow inspection of the originals at its headquarters which is where the FEMA FOIA office is located. It is currently unknown whether FEMA is in possession of the requested “original” documents.

As stated above, FEMA will construe the instant motion as a request for disclosure of information under the *Touhy* regs, and FEMA will respond accordingly. Next, should the requested documents be located by the FEMA FOIA office, FEMA will allow inspection of the documents at its FOIA office as that office has already begun its search for the requested documents pursuant to Hue-Mar’s request dated January 25, 2008. Finally, the undersigned has forwarded a copy of the motion and supporting memorandum to FEMA’s Office of the Inspector General and the FBI so that those entities may handle this matter and any allegations of fraud in connection with this matter as they deem appropriate.<sup>5</sup>

On September 17, 2008, counsel for the government, Ms. Katherine W. Vincent, Assistant United States Attorney, informed counsel for the parties, as well as the undersigned, that a diligent search had been conducted in response to plaintiff’s January 25, 2008 request.

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<sup>4</sup> Plaintiff’s Motion to Compel, Rec. Doc. 62 at 2.

<sup>5</sup> Rec. Doc. 80.

Ms. Vincent advised that some documents had been located, and enclosed them, but that the specific documents requested had not been located.<sup>6</sup>

Considering the foregoing, plaintiff's motion to compel is **GRANTED** only to the extent that the government has responded. The court is satisfied the government has undertaken a diligent search, and that the records are unavailable. In the event the records do come to light, production shall be accomplished immediately.

Signed at Lafayette, Louisiana, on October 7, 2008.



Mildred E. Methvin  
United States Magistrate Judge  
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<sup>6</sup> The referenced correspondence is attached as Exhibit A.